

Effect of Settlement Agreement (24 October 2019) as applied to 2019 Riot Boosting law:

7. Plaintiffs and State Defendants, by and through their counsel, hereby stipulate and agree to this Agreement as follows:

a. SDCL § 20-9-54, in its present form, will not be enforced except for that portion of the statute which provides:

In addition to any other liability or criminal penalty under law, a person is liable for riot boosting, jointly and severally with any other person, to the state or a political subdivision in an action for damages if the person:

(3) Upon the direction, advice, encouragement, or solicitation of any other person, uses force or violence.

b. SDCL § 20-9-56, in its present form, may be enforced, except for the sentence which provides:

"A defendant who solicits or compensates any other person to commit an unlawful act or to be arrested is subject to three times a sum that would compensate for the detriment caused."

Such sentence, in its present form, will not be enforced.

Settlement Agreement

SD law below is enforceable after the settlement agreement, except as indicated by overstrikes:

20-9-53. Definitions pertaining to riot boosting. Terms used in §§ 20-9-53 to 20-9-57, inclusive, mean:

(1) "Civil recoveries," funds received by the state from any third party as damages resulting from violations of chapter 22-10 that cause the state or a political subdivision to incur costs arising from riot boosting under § 20-9-54;

(2) "Person," any individual, joint venture, association, partnership, cooperative, limited liability company, corporation, nonprofit, other entity, or any group acting as a unit;

(3) "Political subdivision," a county or municipality;

(4) "Riot," the same as the term is defined under § 22-10-1; and

(5) "Secretary," the secretary of the Department of Public Safety.

Source: SL 2019, ch 104, § 1, eff. Mar. 27, 2019.

20-9-54. Liability for riot boosting. In addition to any other liability or criminal penalty under law, a person is liable for riot boosting, jointly and severally with any other person, to the state or a political subdivision in an action for damages if the person:

~~(1) Participates in any riot and directs, advises, encourages, or solicits any other person participating in the riot to acts of force or violence;~~

~~(2) Does not personally participate in any riot but directs, advises, encourages, or solicits other persons participating in the riot to acts of force or violence; or~~

(3) Upon the direction, advice, encouragement, or solicitation of any other person, uses force or violence, ~~or makes any threat to use force or violence, if accompanied by immediate power of execution, by three or more persons, acting together and without authority of law.~~

Source: SL 2019, ch 104, § 2, eff. Mar. 27, 2019.

Effect of Settlement Agreement (24 October 2019) as applied to 2019 Riot Boosting law:

20-9-55. Action for riot boosting--Evidence--Procedure. A person is subject to the jurisdiction of the courts of this state for riot boosting that results in a riot in this state, regardless of whether the person engages in riot boosting personally, or through any employee, agent, or subsidiary.

Evidence is not admissible in an action for riot boosting action that shows that any damages, in whole or in part, were paid by a third party. Notwithstanding any other law, any action arising under § 20-9-54 is governed by the procedural and substantive law of this state.

Any action for riot boosting shall be for the exclusive benefit of the state, political subdivision, or an otherwise damaged third party, and shall be brought in the name of the state or political subdivision. The state, a political subdivision, or any third party having an interest in preventing a riot or riot boosting may enter into an agreement to establish joint representation of a cause of action under § 20-9-54.

Source: SL 2019, ch 104, § 3, eff. Mar. 27, 2019.

20-9-56. Damages for riot boosting. The plaintiff in an action for riot boosting may recover both special and general damages, reasonable attorney's fees, disbursements, other reasonable expenses incurred from prosecuting the action, and punitive damages. ~~A defendant who solicits or compensates any other person to commit an unlawful act or to be arrested is subject to three times a sum that would compensate for the detriment caused.~~ A fine paid by a defendant for any violation of chapter 22-10 may not be applied toward payment of liability under § 20-9-54.

Source: SL 2019, ch 104, § 4, eff. Mar. 27, 2019.

20-9-57. Riot boosting recovery fund established. There is established in the state treasury the riot boosting recovery fund. Money in the fund may be used to pay any claim for damages arising out of or in connection with a riot or may be transferred to the pipeline engagement activity coordination expenses fund. Interest earned on money in the fund established under this section shall be credited to the fund. The fund is continuously appropriated to the Department of Public Safety, which shall administer the fund. All money received by the department for the fund shall be set forth in an informational budget pursuant to § 4-7-7.2 and be annually reviewed by the Legislature.

The secretary shall approve vouchers and the state auditor shall draw warrants to pay any claim authorized by §§ 20-9-53 to 20-9-57, inclusive.

Any civil recoveries shall be deposited in the fund.

Source: SL 2019, ch 104, § 5, eff. Mar. 27, 2019.